

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

CECILIA D. BROWN,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:03-cv-240
)	(Phillips/Shirley)
JOHN SNOW,)	
Secretary of the Treasury,)	
)	
Defendant.)	

MEMORANDUM & ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of this Court, and by Order [Doc. 69] of the Honorable Thomas W. Phillips, United States District Judge, for disposition of the defendant's Motion to Strike Hearsay Evidence. [Doc. 62].

The plaintiff moved for oral argument on the defendant's motion. [Doc. 71]. The Court held a hearing on defendant's Motion to Strike [Doc. 62] on December 20, 2005. Accordingly, Plaintiff's Motion for Oral Argument on Motion to Strike Hearsay Evidence [Doc. 71] is **GRANTED**.

The defendant moves to strike hearsay evidence contained in the affidavits of Ernest Joyner and Richard Fink, which the plaintiff submitted in support of her response to the defendant's motion for summary judgment. Based upon the pleadings and the arguments of counsel, the Court will permit the plaintiff to withdraw the Affidavit of Ernest Joyner [Doc. 55 Ex. 15] and the Affidavit of Richard Fink [Doc. 55 Ex. 18] and to file revised affidavits on or before **January 17,**

2006. If the defendant decides to depose Mr. Joyner or Mr. Fink based upon these revised affidavits, the defendant must do so by **February 6, 2006**. Any objections to the revised affidavits shall be filed on or before **February 17, 2006**.

As the plaintiff will be permitted to withdraw the subject affidavits and file revised versions of the same, the defendant's Motion to Strike Hearsay Evidence [Doc. 62] is **DENIED AS MOOT**.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr. _____
United States Magistrate Judge